HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench: **Hon'ble Shri Dilip Raosaheb Deshmukh, J.**

Misc. Appeal (C.) No. 266/2007

APPELLANT: CLAIMANT

Nitin Kumar Kshetriya s/o Jivan Singh Kshetriya, aged 21 years, resident of Bandhwapara, Sarkanda, near Satbaniya Temple, Bilaspur, Tahsil and District Bilaspur (CG)

Versus

RESPONDENTS

1. Alharam Kewat S/o Pyare Lal Kewat, aged about 36 years, resident of Village Lagara, Post Mopka, Tahsil and District Bilaspur (CG).

2. Vyasnarayan Shrivas, S/o Umashanker Shrivas, resident of Village Lagara, Post Mopka, Tahsil and District Bilaspur (CG).

3. United India Insurance Company Limited, Rajendra Nagar, Bilaspur, through its Branch Manager, United India Insurance Company Limited, Rajendra Nagar, Bilaspur (C.G.)

Memorandum of Misc. Appeal Under Section 173 of Motor Vehicles Act

M. A. (C.) No. 1285/2007

APPELLANT: NON-APPLICANT NO.3

The United India Insurance Company Limited, Rajendra Nagar, Bilaspur, Through Branch Manager, United India Insurance Company Limited, Rajendra Nagar, Bilaspur (C.G.)
(Insurer).

Versus

RESPONDENTS

1. Nitin Kumar Kshatriya son of Jeevansingh Kshatriya, aged 21 yrs., Resident of Bandhwapara, Sarkanda, Near Satbaniya Mandir, Bilaspur, Tahsil and District Bilaspur (CG)
CLAIMANT

2. Alaharam Kewat, son of Pyarelal Kewat, aged about 36 years, resident of Village Lagra, Post Mopka, Tahsil and District Bilaspur (CG).
(Driver)

3. Vyasnarayan Shrivas, son of Umashanker Shrivas, resident of Village Lagra, Post Mopka, Tahsil and District Bilaspur. (Owner of the Vehicle)

NON-APPLICANTS NO.1 AND 2

Appeal Under Section 173 of Motor Vehicles Act

Present :

Shri Sameer Singh, counsel for the appellant in M.A.(C.) No. 266/2007 and for respondent No. 1 in M.A.(C.) No.1285/2007.

Shri H.B. Agrawal, Senior Advocate with Ms. Sangeeta Mishra, counsel for appellant in M.A.(C.) No.1285/2007 and respondent No. 3 in M.A.(C.) No.266/2007.

ORAL ORDER

(Passed on 16th November, 2007)

Heard on admission.

2. This common order shall dispose of Miscellaneous Appeal (C) No.266/2007 filed by the claimant for enhancement as also in M.A.(C.) No.1285/2007 filed by the Insurance Company. Both the appeals arise out of an award dated 07-11-2006 passed by Additional Motor Accidents Claims Tribunal, Bilaspur (hereinafter referred to as "the MACT") in Claim Case No. 22/2006 whereby compensation of Rs.1,00,000/- was awarded to the claimants for permanent disability suffered in the accident. The learned MACT has awarded the abovementioned compensation against the Insurance Company while giving it the right to recover the same from the owner of the vehicle.

3. It is not in dispute that Dr. Vinay Kharsan (AW-3) examined by the claimants had stated in para 3, that despite the injuries suffered by the claimant in the Jaw, he would have been able to use the jaw normally after a period of two months. So far as the permanent disability suffered by the claimant due to the accident is concerned, he did not specifically mention the percentage of disability in paragraph 2 but only deposed that some natural changes were seen in the face. In this view of the matter, no specific ground is made out for enhancement of the compensation awarded by the MACT.

4. So far as the appeal preferred by the Insurance Company is concerned, it is not in dispute that driver Alaharam Kewat possessed

an effective and valid licence to drive not only a heavy vehicle but also a light motor vehicle on the date of accident. The learned MACT has also given the right to the appellant/Insurance Company to recover compensation from the insurer. No ground for interference is shown. In the facts and circumstances of the case, the impugned award cannot be faulted with and appeal preferred by the Insurance Company is also liable to be dismissed.

5. Accordingly, the Miscellaneous appeals (C) No. 266/2007 and 1285/2007 are dismissed.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Kvr